

Applicants : Maureen J. Charron and Ellen B. Katz  
Serial No. : 09/886,954  
Filed : June 21, 2001  
Page 6

#### REMARKS

Claims 1-20 are pending in the subject application. By this Amendment, applicants have amended claims 1 and 11. The amendment places the application in condition for allowance or in better form for appeal. Upon entry of this Amendment, claims 1-20 as amended will be pending and under examination.

Applicants maintain that the amendments to claims 1 and 11 do not raise an issue of new matter. Support for the amendments to claims 1 and 11 can be found *inter alia* in the specification on page 6, lines 15-16.

Applicants have amended the specification to include a Sequence Listing for the amino acid sequence (SEQ ID NO:1) set forth in Genbank accession number XP\_011828, which is incorporated by reference into the application. Applicants maintain that the amendments to the specification do not raise an issue of new matter.

Accordingly, applicants respectfully request that the Amendment be entered.

#### Rejections under 35 U.S.C. §112

The Examiner rejected claims 1-20 under 35 U.S.C. §112, second paragraph, as vague and indefinite for reciting the phrase "Genbank accession number XP\_011828" in claims 1 and 11 as the sole means of identifying the claimed GLUTx protein.

Claims 1-20 are further rejected because the Examiner stated that the phrase "comprises the amino acid sequence set forth in Genbank accession number XP\_011828" does not comply with the enablement requirement of 35 U.S.C. §112, first paragraph.

Applicants have amended the specification to include as SEQ ID NO:1 the amino acid sequence set forth in Genbank accession number XP\_011828, which is incorporated by reference into the application. A copy of Genbank accession number XP\_011828 was previously submitted as Exhibit 1 of applicants' response filed April 1, 2003. Applicants' undersigned attorney hereby declares that the amended material consists of the same

Applicants : Maureen J. Charron and Ellen B. Katz  
Serial No. : 09/886,954  
Filed : June 21, 2001  
Page 7

material that is incorporated by reference. A paper copy of a Sequence Listing is provided as **Exhibit 1** and a computer readable form of the Sequence Listing on a floppy disk is attached hereto. Pursuant to 37 C.F.R. §1.821(f), the Sequence Listing information recorded in computer readable form and filed herewith is identical to the paper copy of the Sequence Listing attached hereto as Exhibit 1. Applicants have hereinabove amended claims 1 and 11 to recite "wherein GLUTx protein has the amino acid sequence set forth in SEQ ID NO:1." Applicants maintain that the amended claims satisfy the requirements of 35 U.S.C. §112, first and second paragraphs, and respectfully request that these grounds of rejection be withdrawn.

#### CONCLUSION

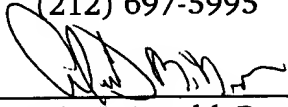
In view of the amendments and remarks made hereinabove, applicants respectfully request that the Examiner reconsider and withdraw the rejections set forth in the July 17, 2003 Final Office Action and earnestly solicits allowance of the claims under examination, namely claims 1-20.

No fee is deemed necessary in connection with the filing of this response. However, if any fee is required to preserve the pending of the subject application, authorization is hereby given to charge any such fee to Deposit Account No. 01-1785.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN  
Attorneys for Applicants  
90 Park Avenue  
New York, New York 10016  
(212) 697-5995

Dated: August 13, 2003  
New York, New York

By   
Craig J. Arnold, Reg. No. 34,287  
Alan D. Miller, Reg. No. 42,889